APPENDIX A

LEGISLATIVE HISTORY OF ACT OF JULY 20, 1956, 70 Stat. 592, 30 U.S.C. Section 122

1. H. R. 6501, Public Law 743:

An Act to amend the Act of July 17, 1914, to permit the disposal of certain reserve mineral deposits under the mining laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The first sentence of section 2 of the Act entitled 'An Act to provide for agricultural entry of lands withdrawn, classified, or reported as containing phosphate, nitrate, potash, oil, gas, or asphaltic minerals', approved July 17, 1914 (38 Stat. 509; 30 U.S.C. 122), is hereby amended by striking out 'such deposits to be subject to disposal by the United States only as shall hereafter expressly be directed by law' and inserting in lieu thereof, 'such deposits to be subject to disposal by the United States only as shall be hereafter expressly directed by law: *Provided, however,* That all mineral deposits heretofore or hereafter reserved to the United States under this Act which are subject, at the time of application for patent, to valid and subsisting rights acquired by discovery and location under the mining laws of the United States made prior to the date of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), shall hereafter be subject to disposal to the holders of those valid and subsisting rights by patent under the mining laws of the United States in force at the time of such disposal'.

Approved July 20, 1956 (1956 U.S.C.C.A., p. 683)

2. Excerpts from Transcript of April 23, 1956, Hearings on H. R. 6501 Before the Subcommittee on Mines and

Mining of the House Committee on Interior and Insular Affairs:[1]

Representative Wayne N. Aspinall, of Colorado, who had introduced H. R. 6501:

> [T]his bill would amend that Act [Act of July 17, 1914] to allow patent to be granted under the mining laws so long as the claim involved was valid prior to the passage of the Act of 1920 and providing that their validity is maintained. This bill would not bestow any right on claims which have, or which will, lapse. . . . (pp. 2,3)
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> As it now stands, if a mining claim exists on a leasable mineral under land upon which a non-mineral surface right has been granted under the Act of July 17, 1914, the only way this valid right can be taken to patent is for the mining claimant to obtain and reconvey to the government the surface title. After this, the mining claim can be granted and patented and the surface right can be reestablished. Thus, if the surface owner refuses to cooperate in this process, the mining claimant is left with a valid right—but a right foreshortened by his inability to obtain patent. (p. 3)
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> In my own area, this would affect mining claims for oil shale, a mineral or oil bearing rock reserved under the Leasing laws. (p. 4)
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> This matter first came to my attention in a case where there exists an isolated tract of land surrounded on all sides by patented shale lands or claims upon which

[1] Since the transcripts have not been edited, reproduction of them cannot be made, without authorization from the House of Representatives. The transcripts can however be inspected, and copied by hand; that was done in preparing these excerpts.

patent is about to issue. This isolated tract is covered by both valid mining claims established under the mining laws and by surface rights granted under the Act of July 17, 1914 (38 Stat. 509; 30 U.S.C., secs. 121-123). It is a sort of 'no man's land'. The surrounding land was also covered by surface rights under the above act, but the mining claimants were able to obtain the cooperation of the surface owner and thereby obtain patent to their mining claims. As it now stands, these claims have little value for mining due to their uncertain status relative to surrounding lands. This legislation would seem to fill out the intention of previous law by allowing patent on this land just as it is now allowed on withdrawn land where agriculture entry has not resulted in a surface patent. (pp. 4,5)

* * * *

The law of 1914 which provides for the reservation of minerals and patents to be issued at that date did not make it possible to gain a patent on mineral claims which were validly entered into between 1914 and 1920. In my district there are a few cases—and we do not know how many but there are a few of them—where there is a valid existing mineral claim to oil shale where there was also a patent on the surface rights of the same land. In one particular case the owner of the surface rights through a patent issued by the government has refused to reconvey any surface rights to the government so that the government then could issue a new patent including the minerals in the area and thereby permit the new patentee to give a deed to the owner of the surface lands. (p. 7)

By so refusing, even though he was offered a good price for his cooperation, he has by his action prohibited the owner of the minerals to secure a patent which

was intended should be the case when the law was passed. In other words, the 1914 law did not have as a part of its intention the denying to a person who did establish a valid mining claim the right to proceed to patent. (p. 7)

Mr. Lewis E. Hoffman, Minerals Staff Officer, Department of the Interior:

I might say, statistically, I have the figures here:

From 1946 to 1955 inclusive, we patented 67 oil shale claims [sic-patents] mostly in Colorado, amounting to 84,602-plus acres; three oil and gas claims amounting to 480 acres, and one sodium claim amounting to 1760 acres. The sodium claim was in California. The oil shale patents were in Colorado and one in Utah. There were several also in California, which are the only three states really affected by minerals leasing. (p. 13)

. . . I hope the committee passes the bill or reports favorably on it.

3. Excerpts from Transcript of May 1, 1956, Hearings on H. R. 6501 Before the House Committee on Interior and Insular Affairs (testimony by Representative Aspinall):

* * * this does not have to do with any other minerals except the leasable minerals to which no one can get a patent since 1920, but these leasable minerals were patentable up until 1920, and this refers only to them. As far as I know, there are only just a few cases that are involved, and most of those cases are in the oil shale lands of eastern Utah and western Colorado. That is all this bill refers to. (pp. 3,4)

4. Excerpts from Senate Report No. 2524, July 11, 1956:[2]

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[2] The House Report, No. 2198, was similar.

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 6501) . . . having considered the same, report favorably thereon and recommend that the bill do pass.

OBJECTIVES OF H.R. 6501

If enacted, H.R. 6501 would amend a 1914 Act of Congress so as to permit holders of valid and subsisting rights to certain mineral deposits acquired by discovery and location made under the mining laws of the United States prior to the date of February 25, 1920, to perfect the titles thereto by obtaining patent to the mineral estate only. This would obviate the present requirement, impossible to meet in some cases, that holders of such claims, in order to obtain patents thereto, must first obtain the outstanding interest of the surface owner and thereafter reconvey the surface estate to the United States; a patent to the mining claim, including both mineral and surface estates, is then issued to the mining claimant. . . .

* * * *

By the act of July 17, 1914 (38 Stat. 509; 30 U.S.C., secs. 121-123), lands withdrawn, classified, or reported to be valuable for phosphate, nitrate, potash, oil, gas, or asphaltic minerals, which had been open to mineral entry only, were also opened to agricultural entry with the mineral deposits therein reserved to the United States. The mineral deposits in these lands continued to be open to discovery and location under the mining laws of the United States, including the right to obtain patents thereto, until the enactment of the Mineral Leasing Act of February 25, 1920 (30 U.S.C., sec. 181 et seq.). Since then, these mineral deposits have been subject to development only under leases issued by the United States.

* * * *

Under the Department of the Interior decision in the case of James W. Bell (52 I.D. 197 (August 1927)) the owner of a valid mining claim located before February 25, 1920, on lands covered by the 1914 act, in order to obtain a patent to the minerals, is required to acquire the outstanding interest of the surface owner and thereafter to execute a deed of reconveyance to the United States; subsequently, a mineral patent to the land, including both the surface and minerals, is issued to the mining claimant. From 1946 to 1955, inclusive, 71 mining claims, including 67 oil shale claims, were issued under this procedure. The Committee is informed that in a few cases mining claimants have been unable to obtain the cooperation of the owners of the surface estate and have been prevented thereby from obtaining patent to the mineral estate.

If enacted, H.R. 6501 would permit a qualifying mining claimant to be issued a patent to the mineral estate without requiring a reconveyance of or otherwise disturbing the surface estate.

TWO BILLS CONSIDERED

When the committee considered H.R. 6501 it also had before it S.2115. These two measures, being identical, were introduced in the respective bodies of Congress. The Department of Interior in reporting on H.R. 6501 and S.2115 recommended that two amendments be adopted and these amendments were adopted by the House prior to passage of H.R. 6501 by that body and transmission of the bill to the Senate.

DEPARTMENTAL REPORT

Department of the Interior
Office of the Secretary
Washington, D. C., March 20, 1956.

Hon. James E. Murray,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

My Dear Senator Murray: This is in reply to your request for the views of this Department on S.2115, a bill to amend the act of July 17, 1914, to permit the disposal of certain reserved mineral deposits under the mining laws of the United States.

* * * *

. . . the problem which S. 2115 is presumably intended to clear up concerns valid and subsisting rights acquired by discovery and location under the mining laws made prior to the enactment of the Mineral Leasing Act of February 25, 1920. . . .

* * * *

The apparent purpose of this bill is to obviate the necessity for requiring such as reconveyance and to permit the locator or his successor in interest to be issued a patent for the reserved minerals which are subject to valid and subsisting rights acquired by discovery and location under the mining laws.

Though we heartily endorse the purpose of S. 2115, we believe that certain amendments of a clarifying nature would be desirable. . .

Wesley A. D'Ewart,
Secretary of the Interior

The Senate Committee on Interior and Insular Affairs recommends the enactment of H.R. 6501. (1956 U.S.C.C.A., pp. 3391-94)

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